

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

IN RE:

Case No.:19-05016-EAG

HARRY SANTIAGO FELICIANO,

Chapter 7

Debtor.

TRUSTEE'S RESPONSE IN OPPOSITION TO DEBTOR'S "MOTION
REQUESTING CONVERSION TO CHAPTER 13" (DKT. No. 8) AND
TRUSTEE'S REQUEST FOR RECONSIDERATION OF THE ORDER
GRANTING CONVERSION (Dkt. No. 9)

TO THE HONORABLE COURT:

COMES NOW, CHAPTER 7 TRUSTEE, NOREEN WISCOVITCH RENTAS, respectfully responds in opposition to the Debtor's Motion for Conversion to Chapter 13 (Dkt. No. 8) and requests the Reconsideration of the Order approving the conversion to Chapter 13 (Dkt. No. 9) and in support, states:

1. On August 30, 2019, Debtors filed a voluntary Chapter 7 Petition under the Bankruptcy Code. The undersigned was appointed on this case on August 31, 2019.
2. At the 341 Meeting of creditors held on September 26, 2019, the Trustee learned from reviewing Debtor's documents related to the purchase of a 2019 Toyota Yaris, that within 90 days prior to the Bankruptcy Petition the Debtor:
 - a. Purchased a 2019 Toyota Yaris on July 18, 2019, from Furiel Auto Corp. The Debtor took possession of the vehicle that same day.
 - b. The Debtor purchased the vehicle by applying for a Loan with Popular Auto, LLC.

c. Popular Auto, LLC presented to the Department of Motor Vehicles the request to impose a chattel mortgage and/or lien on the 2019 Toyota Yaris on August 23, 2019. See Exhibit A.

3. It is the Trustee's position that Popular Auto, LLC failed to perfect its security interest within 30 days as required under 11 U.S.C. §547(c)(3)(A) and (B). That is, within 30 days after the Debtor received possession of the motor vehicle. Since the creditor did not perfect its security interest within 30 days, then any perfection after the 30 days will be considered a transfer within the meaning of Section 547. See Section 547 (e)(2).
4. Because the Trustee intended after the 341 Meeting to bring an avoidance action for because the security interest was attempted to be perfected after the 30 days of possession had lapsed; the Trustee requested the turnover of the motor vehicle from the Debtor.
5. The 2019 Toyota Yaris was then turnover to the Trustee by the Debtor and it is in the Estate's possession until a determination of the Court on the untimely perfection of the security interest by Popular Auto, LLC.
6. In order to avoid these actions by the Trustee, the Debtor moved immediately (shortly after the 341 Meeting) to convert to Chapter 13. Clearly such action was in Bad Faith.
7. The Order granting conversion was entered the very next day, without giving the Trustee an opportunity to be heard.
8. If the Trustee is successful avoiding the Transfer to Popular Auto, LLC, she can then sell the vehicle and repay creditors.

9. To date, the Debtor has not demonstrated that he has disposable income to fund a plan. To the contrary Schedule J shows a deficiency of \$-21.58. See Dkt. No. 1
10. It is clear that the Debtor filed the Motion to Convert in bad faith. He has not shown at *prima facie* that He is able to confirm a plan. According to Schedule I and J, Debtor does not have any disposable income and there is no surplus income to commit to a payment plan under chapter 13.
11. The Debtor is impeding the administration of assets of the Estate by the Chapter 7 Trustee by converting the case to Chapter 13.
12. In the alternative, if the Court was to determine that the Debtor should be allowed to stay in Chapter 13, and if the Debtor fails to confirm a plan, then the Trustee respectfully requests that the case is reconverted to Chapter 7 instead of being dismissed.

WHEREFORE, Noreen Wiscovitch-Rentas, Chapter 7 Trustee, respectfully requests for the Court to vacate the order granting the conversion of the case to Chapter 13 and reconvert to Chapter 7 or, in the alternative, if the Debtor fails to proposed a confirmable plan or complete a Chapter 13 Plan, then the case should to be reconverted to Chapter 7.

PLEASE TAKE NOTICE that within Fourteen (14) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the objection will be deemed unopposed

and may be granted unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the court, the interest of justice requires otherwise. If you file a timely response, the court may - in its discretion - schedule a hearing

I HEREBY certify that a true and correct copy of this document has been sent by CM/ECF service to all parties so subscribed and the Debtor, Harry Santiago Feliciano, HC 2 Box 6025, Adjuntas, PR 00601, Debtor's Counsel, Lcdo. Luis Colon Flores, at bufetecolonflores@gmail.com and to all parties on the attached list, this 29th day of September 2019.

/s/ Noreen Wiscovitch-Rentas
NOREEN WISCOVITCH-RENTAS
CHAPTER 7 TRUSTEE
PMB 136
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San Juan, Puerto Rico 00918
Tel. (787) 946-0132
E-mail: noreen@nwr-law.com

DTOP-770



GOBIERNO DE PUERTO RICO

Departamento de Transportación
y Obras Públicas
Dirección de Servicios al Conductor



SOLICITUD PRESENTACIÓN GRAVAMEN MOBILIARIO SOBRE VEHÍCULOS DE MOTOR

(X) Presentación () Liberación () Enmienda

A. INFORMACIÓN DEL ACREEDOR

() Acreedor Garantizado () Acreedor Hipotecario

Popular Auto, LLC

660-45-3249

Nombre Corporación o Razón Social (si aplica)

Número Identificación Patronal

1451 Ave F D Roosevelt

Dirección Residencial (Urbanización, Condominio o Barrio)

Número de Casa

Calle

San Juan, PR

Apartamento o Buzón

00920-2717

Municipio

Zona Postal

Popular Auto, LLC, PO Box 70370, San Juan, PR 00936-8370

Dirección Postal (Urbanización, Condominio o Barrio)

Número de Casa

Calle

San Juan, PR

Buzón

00936-8370

Municipio (Solo si es diferente a la Residencial)

Zona Postal

B. INFORMACIÓN DEL DEUDOR

Henry Santiago Feliciano

Nombre Corporación o Razón Social (si aplica)

Cen 526 LLC Bo Yuyales

Número de Seguro Social

Dirección Residencial (Urbanización, Condominio o Barrio)

Número de Casa

Calle

Adjuntas

Apartamento o Buzón

Municipio

00601

Teléfono

Código Electrónico

Dirección Postal (Urbanización, Condominio o Barrio)

0025

Número de Casa

Calle

Municipio (Solo si es diferente a la Residencial)

Buzón

5 Nov-70

Zona Postal

Fecha de Nacimiento

Número de Licencia de Conducir

C. INFORMACIÓN SOBRE EL VEHÍCULO

Toyota

Yaris

2019

Red

(X) Nuevo () Usado

Marca

Modelo

Año

Color

3HYDL8YV8K528111

JHA-786

Número de Registro

Cilindro

Número de Serie

Número de Tabilla

7/18/19

Caballos de Fuerza

Número de Puertas

Capacidad de Carga

Peso Neto

Fecha Adquisición

Etiqueta Procedencia

Título del Vehículo

Número de Contrato

Fecha

FURIEL AUTO CORP

Número de Licencia

Número de Identificación Patronal

Nombre Traficante

Firma del Acreedor

Fecha

Firma Deudor

PARA USO OFICIAL SOLAMENTE
Presentación a inscripción

Fecha y Hora de Presentación:

Día/Mes/Año

Hora

Minutos

Lugar

Derechos a Pagar

Número de Control Asignado

Nombre Funcionario Receptor de DISCO

Fecha

Firma

Rev. 23May2016

DTOP - DISCO

AUG 23 2019

Firma

DISCO - PONCE

www.dtop.gov.pr

Exhibit A

Label Matrix for local noticing
0104-2
Case 19-05016-EAG7
District of Puerto Rico
Ponce
Sun Sep 29 13:14:02 AST 2019

ADM DE RETIRO
PO BOX 42003
SAN JUAN, PR 00940-2203

FIRST BANK
PO BOX 84028
COLUMBUS, GA 31908-4028

POPULAR AUTO
PO BOX 362708
SAN JUAN, PR 00936-2708

SYNCHRONY BANK/JCP
PO BOX 960090
Orlando, FL 32896-0090

MONSITA LECAROS ARRIBAS
OFFICE OF THE US TRUSTEE (UST)
OCHOA BUILDING
500 TANCA STREET SUITE 301
SAN JUAN, PR 00901

End of Label Matrix
Mailable recipients 17
Bypassed recipients 0
Total 17

ORIENTAL BANK CCU
CCU BANKRUPTCY DEPARTMENT
PO BOX 364745
SAN JUAN, PR 00936-4745

AEELA
PO BOX 364508
SAN JUAN, PR 00936-4508

ORIENTAL BANK
PO BOX 6818
CAROL STREAM, IL 60197-6818

SEARS/CBNA
PO BOX 6497
SIOUX FALLS, SD 57117-6497

WALMART/SYNCHRONY BANK
PO Box 530927
Atlanta, GA 30353-0927

NOREEN WISCOVITCH RENTAS
PMB 136
400 CALAF STREET
SAN JUAN, PR 00918-1314

US Bankruptcy Court District of PR
Jose V Toledo Fed Bldg & US Courthouse
300 Recinto Sur Street, Room 109
San Juan, PR 00901-1964

AMERICAN EXPRESS
PO Box 981537
El Paso, TX 79998-1537

POPULAR AUTO
BANKRUPTCY DEPARTMENT
PO BOX 366818
SAN JUAN PUERTO RICO 00936-6818

SISTEMA DE RETIRO PARA MAESTROS
PO BOX 191879
SAN JUAN, PR 00919-1879

HARRY SANTIAGO FELICIANO
HC 2 BOX 6025
ADJUNTAS, PR 00601-9203

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